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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2009-277

12 **KIM MARIE NIX LAWSON, A.K.A.**
13 **KIM MARIE LAWSON, A.K.A.,**
14 **KIM NIX**

ACCUSATION

566 Park Street
Turlock, California 95380

15 Registered Nurse License No. 438720

16 Respondent.

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18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board") Department of Consumer
22 Affairs.

23 **Registered Nurse License**

24 2. On or about March 31, 1989, the Board issued Registered Nurse License
25 Number 438720 to Kim Marie Lawson, also known as Kim Marie Nix Lawson and Kim Nix
26 ("Respondent"). The registered nurse license will expire on November 30, 2010, unless
27 renewed.

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JURISDICTION

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

1 8. Code section 4022 states, in pertinent part:

2 "Dangerous drug" . . . means any drug . . . unsafe for self-use in
3 humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits
5 dispensing without prescription." "Rx only," or words of similar import.

6 (c) Any other . . . that by federal or state law can be lawfully
7 dispensed only on prescription or furnished pursuant to Section 4060.

8 9. Code section 4060 states, in pertinent part: .

9 No person shall possess any controlled substances, except that
10 furnished to a person upon the prescription of a physician, dentist,
11 podiatrist, optometrist, veterinarian, or naturopathic doctor....

12 10. Health and Safety Code section 11173, subdivision (a), provides that no
13 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
14 the administration of or prescription for controlled substances, (1) by fraud, deceit,
15 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

16 COST RECOVERY

17 11. Code section 125.3 provides, in pertinent part, that the Board may request
18 the administrative law judge to direct a licensee found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
20 and enforcement of the case.

21 DRUGS

22 12. **"Lortab"** is a brand of Hydrocodone and a Schedule III controlled
23 substance as designated by Health and Safety Code section 11056, subdivision (e)(4), and a
24 dangerous drug under Code section 4022 in that under federal or state law it requires a
25 prescription.

26 13. **"Tylenol with Codeine"** is a compound consisting of not more than 90
27 mg. of codeine and 300 mg. of acetaminophen per tablet., and is a Schedule III controlled
28 substance as designated by Health and Safety Code section 11056, subdivision (e)(2) and a
dangerous drug pursuant to Code section 4022 in that under federal or state law it requires a
prescription.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Obtained and Possessed Controlled Substances in Violation of Law; and,**
3 **Self-Administration)**

4 14. Respondent is subject to discipline under Code section 2761, subdivision
5 (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a),
6 in that while on duty as a Registered Nurse at Family Birthing Center at Memorial Medical
7 Center, Modesto, California, Respondent, by her own admission, committed the following acts:

8 a. Between April 1, 2005, and April 24, 2005, Respondent obtained the
9 controlled substances Lortab and Tylenol with Codeine #3 by fraud, deceit, misrepresentation or
10 subterfuge by taking the drugs from hospital supplies in violation of Health and Safety Code
11 section 11173, subdivision (a).

12 b. Between April 1, 2005, and April 24, 2005, Respondent possessed the
13 controlled substances Lortab and Tylenol with Codeine #3 without lawful authority in violation
14 of Code section 4060.

15 c. Between April 1, 2005, and April 24, 2005, Respondent self-administered
16 Lortab.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Falsify Patient and/or Hospital Records)**

19 15. Respondent is subject to discipline under Code section 2761, subdivision
20 (a) on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (e),
21 for unprofessional conduct, in that between April 1, 2005, and April 24, 2005, while on duty as a
22 Registered Nurse at Family Birthing Center at Memorial Medical Center, Modesto, California,
23 Respondent falsified or made grossly incorrect, inconsistent, or unintelligible entries in the
24 following hospital and patient records:

25 **Patient A**

26 a. On April 1, 2005, at 1907 hours, Respondent withdrew 2 Lortab 5/APAP
27 tablets from the Pyxis System for this patient; however, Respondent failed to chart the

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1 administration or wastage of any portion of the Lortab in any patient or hospital record or
2 otherwise account for the disposition of the drug.

3 **Patient B**

4 b. On April 2, 2005, at 2058 hours, Respondent withdrew 2 Lortab 5/APAP
5 tablets from the Pyxis System for this patient; however, Respondent failed to chart the
6 administration or wastage of any portion of the Lortab in any patient or hospital record or
7 otherwise account for the disposition of the drug.

8 **Patient C**

9 c. On April 2, 2005, at 0053 hours, Respondent withdrew 2 Tylenol with
10 Codeine 30 mg tablets from the Pyxis System for this patient; however, Respondent failed to
11 chart the administration or wastage of any portion of the Tylenol with Codeine in any patient or
12 hospital record or otherwise account for the disposition of the drug.

13 **Patient D**

14 d. On April 6, 2006, at 2007 hours, Respondent withdrew 2 Lortab 5/APAP
15 tablets from the Pyxis System for the drug for this patient; however, Respondent failed to chart
16 the administration or wastage of any portion of the Lortab in any patient or hospital record or
17 otherwise account for the disposition of the drug.

18 **Patient E**

19 e. On April 11, 2005, at 2139 hours, Respondent withdrew 2 Lortab 5/APAP
20 tablets from the Pyxis System for this patient; however, Respondent failed to chart the
21 administration or wastage of any portion of the Lortab in any patient or hospital record or
22 otherwise account for the disposition of the drug.

23 **Patient F**

24 f. On April 13, 2005, at 2003 hours, Respondent withdrew 2 Lortab 5/APAP
25 tablets from the Pyxis System for this patient; however, Respondent failed to chart the
26 administration or wastage of any portion of the Lortab in any patient or hospital record or
27 otherwise account for the disposition of the drug.

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1 **Patient G**

2 g. On April 14, 2005, at 0138 hours, Respondent withdrew 2 Lortab 5/APAP
3 tablets from the Pyxis System for this patient; however, Respondent failed to chart the
4 administration or wastage of any portion of the Lortab in any patient or hospital record or
5 otherwise account for the disposition of the drug.

6 **Patient I**

7 h. On April 19, 2005, at 0047 hours, Respondent withdrew 2 Lortab 5/APAP
8 tablets from the Pyxis System for this patient; however, Respondent failed to chart the
9 administration or wastage of any portion of the Lortab in any patient or hospital record or
10 otherwise account for the disposition of the drug.

11 **Patient K**

12 i. On April 22, 2005, at 0601 hours, Respondent withdrew 2 Lortab 5/APAP
13 tablets from the Pyxis System for this patient; however, Respondent failed to chart the
14 administration or wastage of any portion of the Lortab in any patient or hospital record or
15 otherwise account for the disposition of the drug.

16 **Patient M**

17 j. On April 24, 2005, at 0043 hours, Respondent withdrew 2 Lortab 5/APAP
18 tablets from the Pyxis System for this patient; however, Respondent failed to chart the administ-
19 ration or wastage of any portion of the Lortab in patient or hospital record or otherwise account
20 for the disposition of the drug.

21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 438720, issued
25 to Kim Marie Nix Lawson, also known as Kim Marie Lawson and Kim Nix;

26 2. Ordering Kim Marie Nix Lawson, also known as Kim Marie Lawson and
27 Kim Nix to pay the Board of Registered Nursing the reasonable costs of the investigation and
28 enforcement of this case, pursuant to Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: 5/1/09

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant